

RULEMAKING FACT SHEET
TITLE 5 MRSA § 8057-A

AGENCY: Department of Environmental Protection

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

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CHAPTER NAME AND RULE TITLE: Chapter 200 Metallic Mineral Exploration,
Advanced Exploration and Mining

STATUTORY AUTHORITY: Public Law 2011, Chapter 653
38 MRS Section 490-NN(1)(B)

DATE AND PLACE OF PUBLIC HEARING: September 15, 9:00 AM
Augusta Civic Center
Civic Center Drive
Augusta, Maine

COMMENT DEADLINE: September 26, 2016 5:00 PM

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE:

This new rule is being proposed to implement the Maine Metallic Mineral Mining Act, 38 M.R.S.A. Section 490-II et seq., and will repeal and replace the existing Chapter 200 Metallic Mineral Exploration, Advanced Exploration and Mining rule. The proposal updates Maine's mining regulations to provide a comprehensive application and permitting process for several types of mining activities, including exploration, advanced exploration and mining.

ANALYSIS AND EXPECTED OPERATION OF THE RULE:

Under the proposal, exploration activities, which limit excavations to a maximum surface opening of no more than 300 square feet, do not require a permit, but must instead submit a work plan and meet a number of performance standards designed to protect natural resources and properly restore the exploration site.

Advanced exploration activities, which involve more extensive sampling (along with the potential for more significant environmental impacts) are parsed into two general permit categories: Tier One advanced exploration activities involve the excavation and removal of up to 2,000 tons of material, while Tier Two advanced exploration activities may involve up to 10,000 tons of excavated material. Under an advanced exploration mining permit, the on-site processing of samples is limited to mechanical size alteration (crushing) and sorting. All testing and characterization must take place in enclosed facilities, and all waste generated from on-site

testing and characterization must be transported off-site for disposal. Tier One and Tier Two advanced exploration activities are subject to comprehensive permitting requirements. In addition to meeting the exploration work standards, persons conducting Tier One advanced exploration activities must also meet blasting standards, financial assurance requirements, and submit a reactive mine waste characterization plan that analyzes the potential for forming reactive mine wastes (e.g., acid rock drainage) along with measures to monitor, limit and control any acid rock drainage or metal leaching.

Applicants for a Tier Two advanced exploration permit must also submit (in addition to the requirements for Tier One advanced exploration) a baseline site characterization report, an environmental impact assessment, interim and final closure plans, and plans for the management of excavation and processing waste.

Finally, mining activities which involve the excavation of 10,000 tons or more of material, are subject to a wide ranging suite of requirements that include (in addition to the above), a quality assurance plan, monitoring plan, and reactive mine and hazardous materials management plans. More importantly, since these mining activities can include on-site beneficiation of ore and disposal of reactive mine wastes, applicants must demonstrate that mine waste units meet performance requirements designed to prevent the contamination of surface and groundwater.

FISCAL IMPACT OF THE RULE:

This proposal will have varying fiscal impacts on the regulated community (potentially including, small businesses), depending on the type of mining activity being undertaken. For example, persons engaged in exploration activities will see only minimal costs associated with the preparation of an exploration workplan and follow-up report. At the other end of the spectrum, persons filing an application for a mining permit will be subject to a \$500,000 application fee, the need to reimburse intervenors for up to \$150,000 of costs, and annual license fees ranging from \$20,000 to \$50,000. The Department's proposal requires applicants to meet financial assurance requirements for the reclamation of mined lands and surrounding areas affected by advanced exploration and mining activities so that the public will not bear the costs of reclaiming an abandoned mine site. In the event of such an abandonment or financial incapability by the operator, the financial assurance funds will be used by the Department to reclaim both the mined lands and any affected surrounding areas.

The proposal should also minimize the fiscal impact on municipalities, as applicants are required to make adequate provisions for utilities, including electrical power, heating fuel supplies, water supplies, wastewater treatment facilities and solid waste disposal, and demonstrate that the mining operation will not have an unreasonable adverse effect on the existing or proposed utilities in a municipality or area served by those services. In addition, local municipalities (or the county commissioners in an unorganized area) are provided intervenor status upon request, and will be reimbursed by the applicant for up to \$50,000 (each) for their direct costs of intervention.

In addition, the Department believes that the application and other fees associated with filing for an advanced exploration or mining permit should be sufficient to cover the Department's expected review costs (including third-party expert analysis) of all application materials. In addition, there should be only minimal fiscal impacts on other state agencies, since the Department of Inland Fisheries and Wildlife, Department of Agriculture, Conservation and Forestry, and the Department of Marine Resources will be reimbursed for all expenses attributable to the application, including appeals.

BENEFITS OF THE RULE:

The Maine Legislature directed the promulgation of these rules in PL 2011, Chapter 653. The changes in Maine's mining laws were intended to modernize Maine's mining regulations through the establishment of performance-based standards (whenever appropriate) and reducing the number of separate environmental permits necessary for mining activities.